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09/804,612	03/12/2001	M. Ibrahim Sezan	KLR 7146.115	3154

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EXAMINER

CHUONG, TRUC T

ART UNIT	PAPER NUMBER
2179	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,612

Applicant(s)

SEZAN ET AL.

Examiner

Truc T Chuong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This communication is responsive to Amendment A filed 08/10/04.
2. Claims 2-24 are pending in this application. Claim 21 is independent claim. In Amendment A, claims 2, 11, 14-16, and 20 are amended, and claims 21-24 are new claims. This action is made final.

Claim Objections

3. Claims 2-24 are objected to because of the following informalities: in claim 21, there is a missing “,” between “of audio (,) image”. Appropriate correction is required.

Other claims are also objected because of their dependency.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 21, 22, 23, 24, 2-5, 7-11, 13-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 30(c)

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and d), 30(c), 1(a (ii)), 1(c), 1(d), 22, 2, 40(d(4)), 40(d(4)), 17(c), 2, 17(a(i)), 3(d), 8(c), 9(c), 9(b and c), 10c, and 10c respectively of prior U.S. Patent No. 6,236,395 B1.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the patented claims are also directed to the same subject matters as the current Application, i.e., a method/system for providing a program description scheme containing information related to interrelationships between a plurality of frames, video, or audio, wherein available videos, available categories, available channels, available users, available images, capabilities of a device for providing the audio, image, and the video to a-user, relationship between them contains in user preference data based upon a user's viewing history or listening history.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 2-11, 13-18, and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Oosterhout et al. (U.S. Patent No. 6,405,371 B1).

As to claim 21, Oosterhout teaches a method of using a system with at least one of audio, image, and a video comprising a plurality of frames comprising the steps of:

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(a) providing a user description scheme containing user preference data for a predetermined user (if the "theme" button is selected, the program allows the user to input the type of television program he is currently interested in. In this example, it will be assumed that the viewer is interested in movies. The sub-program 309 displays a list of available program types such as "Entertainment", "News", "Sports", "Movie", etc, e.g., col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7);

(b) providing at least one of the following:

(i) a program description scheme containing information related to at least one of information regarding interrelationships between a plurality of said frames (e.g., col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7), characteristics of the content of a plurality of said frames, characteristics of the content of said audio, characteristics of the content of said image, characteristics of the content of said video;

(ii) a system description scheme containing information regarding at least one of available videos, available categories, available channels, available users, available images, capabilities of a device for providing said at least one of said audio, said image, and said video to a-user, relationship between at least two of said video, said program description scheme, and said user description scheme, relationship between at least two of said audio, said program description scheme, and said user description scheme, relationship between at least two of said image, said program description scheme, and said user description scheme; and

(c) selecting at least one of a video, an image, and audio based upon said at least one of said program description scheme, said user description scheme, and said system description scheme (e.g., col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7).

As to claim 2, Oosterhout teaches the method of claim 21 wherein said program description scheme contains information related to said interrelationships of said plurality of said frames (e.g., col. 4 lines 4-30, and figs. 4-7).

As to claim 3, Oosterhout teaches the method of claim 2 wherein said interrelationships include the identification of key frames is video frames (figs. 4-7).

As to claim 4, Oosterhout teaches the method of claim 2 wherein said interrelationships include the identification of a plurality of said frames representative of the highlights of at least a portion of said video (An asterix or other special symbol may be displayed near the sub-images, the relevant channel names may be highlighted, the border lines of the sub-images may change color, etc, e.g., col. 57-63, and figs. 4-7).

As to claim 5, Oosterhout teaches the method of claim 2 wherein said interrelationships include the identification of a set of frames, each of which is representative of a different portion of said video (figs. 4-7).

As to claim 6, Oosterhout teaches the method of claim 5 wherein said different portion of said video is non-overlapping (figs. 4-7).

As to claim 7, Oosterhout teaches the method of claim 2 wherein said interrelationships include the identification of a plurality of sequential frames of said video that represent at least one of a shot and a scene (figs. 4-7).

As to claim 8, Oosterhout teaches the method of claim 7 wherein said identification further includes a plurality of said at least one of said shot and said scene (e.g., col. 4 lines 4-30, and figs. 4-7).

As to claim 9, Oosterhout teaches the method of claim 4 wherein said interrelationships includes a plurality of highlights of the same portion of said video having different durations (the similar programs play in different channels showing different length and time, e.g., col. 37-65, and fig. 9).

As to claim 10, Oosterhout teaches the method of claim 3 wherein said interrelationships includes a plurality of key frames of the same portion of said video having a different number of frames of said portion of said video (figs. 4-9).

As to claim 11, Oosterhout teaches the method of claim 21 wherein said program description scheme contains characteristics of said content of said plurality of said frames (theme, col. 1 lines 35-63, col. 4 lines 4-14, and figs. 4-7).

As to claim 13, Oosterhout teaches the method of claim 11 wherein said characteristics include at least one of a color profile of at least a portion of said video, a texture profile of at least a portion of said video, a shape profile of at least a portion of said video, and a motion profile of at least a portion of said video (change colors, e.g., col. 4 lines 15-36, and figs. 6-8).

As to claim 14, Oosterhout teaches the method of claim 21 wherein said program description scheme identifies a portion of each of a plurality of said frames of said video that is to be presented to a user at a size larger than it would have been presented within said video (fig. 9).

As to claim 15, Oosterhout teaches the method of claim 21 wherein said program description scheme identifies a second video segment separate from said video that includes a close up view of a portion of said video (fig. 9).

As to claim 16, Oosterhout teaches the method of claim 21 wherein said program description scheme identifies a second audio track separate from the normal audio track of said video (Oosterhout inherently teaches this feature because fig. 9 shows two different screens of the same video (45a and the larger view); therefore, there are two separate audio tracks (a track for each video)).

As to claim 17, Oosterhout teaches the method of claim 21 wherein said program description scheme includes textual annotation related to said video (CNN, BBC, CH4, etc.).

As to claim 18, Oosterhout teaches the method of claim 17 wherein said textual annotation is related to an object within said video (scheduled broadcast dates and times, titles, types (for example, entertainment, news, sports, movies, etc.), parental ratings, etc., e.g., col. 2 lines 40-45).

As to claim 22, Oosterhout teaches the method of claim 21 wherein said user description scheme is portable between systems containing said program or said system description scheme (Oosterhout inherently shows this feature because the control program can be stored in and executed by microprocessor 25 (e.g., col. 3 lines 18-31; therefore, the control program of Oosterhout can be loaded into different computers or processors).

As to claim 23, it can be rejected under similar rationale as claim 22 above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12, 19-20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oosterhout et al. (U.S. Patent No. 6,405,371 B1).

As to claims 12 and 19, although, Oosterhout teaches the method of claim 11 wherein said characteristics of the frames/video/genre (e.g., col. 4 lines 4-30, and figs. 4-7), Oosterhout does not clearly show the characteristics relating to an actor within the video; however, it is well known and it would have been obvious to implement the characteristics of the video as mentioned above to tell information about a person in that video for viewer's references.

As to claim 20, although, Oosterhout does not clearly teaches the method of claim 21 wherein said program description scheme identifies Internet based information related to said video; however, it is well known and it would have been obvious to implement the scheme of the video as mentioned above to connect the channels with their Web Sites such as CNN, BBC, SAT Web Links, etc. for convenience purposes.

10. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oosterhout et al. (U.S. Patent No. 6,405,371 B1) in view of Brown et al. (U.S. Patent No. 6,286,141).

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As to claim 24, Oosterhout does not teach the scheme contains user preference data based upon a user's viewing history or listening history. Brown clearly teaches personal editing apparatus 1102 compiles a history of past viewing habits based solely on channel number selected and the time of day and day of week the channel number was selected (e.g., col. 11 lines 35-42). It would have been obvious at the time of the invention, a person with ordinary skill in the art would want to use the history record of Brown in the system of Oosterhout to be able to keep the viewing record of each different viewer for providing appropriate information in the future (see Summary).

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

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advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T Chuong whose telephone number is 571-272-4134. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather R. Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

11/13/04


BA HUYNH
PRIMARY EXAMINER